

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5967 of 1999

to

FIRST APPEAL No 5969 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

SHABHAIBHAI MANGALBHAI

Appearance:

Mr.K.G. Sheth, AGP for appellants

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 05/04/2000

1. Special Land Acquisition Officer, Kheda, Vanakbori Thermal Power Station, has filed this group of first appeals under Section 54 of the Land Acquisition Act, 1894 (to be referred to as 'Act' for short) read with Section 96 of the Code of Civil Procedure, 1908, challenging common judgment and award dated September 24, 1997 rendered by the learned Assistant Judge, Kheda, at Nadiad, in Land Reference Cases Nos. 88 of 1985 to 90 of 1985. As common question of facts and law arise for our consideration, we propose to dispose of all these appeals by this common order.

2. Lands of the respondents situated at village Sinhol, Taluka Thasra, were acquired for railway-siding of Vanakbori Thermal Power Station by issuance of notification under Section 4(1) of the Act on July 10, 1980. After following the procedure under the Act, the Land Acquisition Officer made his award on September 27, 1982 and offered compensation to the respondents for their acquired lands at the rate of Rs.55/- per Are. The respondents were of the opinion that the compensation offered by the Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the Court for determination of adequate compensation. Accordingly, references were made to the District Court, Kheda, which were numbered as Land Reference Cases Nos. 88 of 1985 to 90 of 1985

3. Before the Reference Court also, the respondents claimed compensation at the rate of Rs.400/per Are. To substantiate their claim, the respondents-claimants examined Dahyabhai Rumalbhai at Exh.24. The witness, during his oral deposition, described situation of acquired lands and produced previous award of the Reference Court rendered in Land Acquisition Case No.223 of 1987 and allied matters, by which, market price of acquired lands of same village was determined at the rate of Rs.225/- per Are as on April 11, 1980. The witness deposed that acquired lands of previous award Exh.21 was in all respects relevant and comparable with the present acquired lands and were having same fertility. The Reference Court had relied upon the previous award Exh.21 for the purpose of determination of market price of the present acquired lands and determined market price of acquired lands at the rate of Rs.275/- per Are as on July 10, 1980, which has given rise to filing of the present

appeals by the Special Land Acquisition Officer.

3. We have heard learned counsel for the appellant at length. We have also taken into consideration relevant documents as well as oral evidence produced by learned counsel for the appellant for our perusal before deciding this group of appeals.

4. It is well settled that previous award of the Reference Court in respect of similar lands of the same village or nearby village and which has become final between the parties can be relied upon for the purpose of ascertaining market value of the lands acquired subsequently from adjoining village. The present lands were acquired after three months of acquisition of acquired lands of award Exh.21. Therefore, the Reference Court had not committed any error in relying upon previous award Exh.21 for the purpose of determination of market price of present acquired lands. It is not brought to our notice by learned counsel for the appellants that previous award Exh.21 was challenged in higher forum. Therefore, in our opinion, previous award Exh.21 had become final and the Reference Court was justified in placing reliance on the previous award. Witness Dahyabhai Exh.24 had described situation and fertility of present acquired lands and acquired lands of previous award Exh.21. Evidence of claimant, Dahyabhai Exh 24 makes it clear that acquired lands of previous award Exh.21 were similar in all respect to the lands acquired in the present case. It was never brought to the notice of the Court that the lands acquired in the present case have certain disadvantages in comparison to acquired lands of previous award Exh.21. Therefore, in our opinion, the Reference Court had not committed any error in placing reliance on previous award Exh.21 for the purpose of ascertaining market value of acquired lands of village Singol. Therefore, we confirm determination of market value of acquired lands of village Singol, as on July 10, 1980, at the rate of Rs.275/-, as determined by the Reference Court. The statutory benefits extended in favour of the respondents by the Reference Court are also eminently just and proper and not interfered with.

5. For the foregoing reasons, all the appeals fail and are dismissed with no order as to costs.

(swamy)